IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1184 of 2007
With
SPECIAL CRIMINAL APPLICATION No. 1196 of 2007
With
SPECIAL CRIMINAL APPLICATION No. 1197 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NARODA MAHAJAN PARABADI & KHODA DHOR PAJARAPOLE TRUST, THRO' - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR NM KAPADIA for Applicant(s) : 1,
MR RC KODEKAR, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
MR ASHUTOSH R BHATT for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 01/08/2007

COMMON ORAL JUDGMENT

1. As common question of law and facts arise, all these petitions are being disposed of by this common judgment and order. Notice for final

disposal is issued in these matters.

2. Heard Shri N.M.Kapadia, learned advocate appearing for the respective petitioners, Shri R.C.Kodekar, learned APP on behalf of the State and Shri A.R.Bhatt, learned advocate appearing for the respondent No.2 in each petitions.

3. In all these petitions respective petitioners have challenged the order passed by the learned City Civil & Sessions Court, Ahmedabad passed in respective Criminal Misc. Applications ordering release of animals in question. As this Court proposes to remand the matter to the learned City Civil & Sessions Court, Ahmedabad as the impugned orders are passed without giving an opportunity of being heard to the respective petitioners, this Court is not further considering the submission on merits. It is not in dispute that before passing the impugned orders releasing the animals in favour of the respondent No.2 in respective petitions, the learned trial City Civil & Sessions Court, Ahmedabad has not given any opportunity of being

heard to the respective petitioners. The controversy in question is squarely covered by the two decisions of this Court rendered in case of ***Mohamed Jamalbhai & Ors. V/s. State of Gujarat & Ors. r***eported in **1985(2) GLR 983** as well as in case of ***Manager, Panjrapole, Deodar V/s. Chakaram Morajinat & Another*** reported in **1997(2) GLR 1321**. Considering the aforesaid two decisions as the impugned orders are passed without giving an opportunity of being heard to the respective petitioners, only on that ground the impugned orders passed in Criminal Misc. Application Nos. 2013 of 2007, 2014 of 2007 and 2015 of 2007 are hereby quashed and set aside without expressing any opinion on the merits of the case and the matters are remanded to the learned City Civil & Sessions Court, Ahmedabad for deciding the aforesaid Criminal Misc. Applications on merits after giving an opportunity of being heard to the respective petitioners as well as the respondent No.2 and the State. Such an exercise to be completed within a period of 4 weeks from the date of receipt of this order. It is made clear that

this Court has not considered the case on merits and the impugned orders are set aside only on the ground that the same are passed without giving an opportunity of being heard to the respective petitioners and it is, ultimately, for the learned City Civil & Sessions Court, Ahmedabad to pass an appropriate order in accordance with law and on merits as stated hereinabove.

4. Rule is made absolute to the aforesaid extent in each of the petitions. Direct Service is permitted.

[M.R.Shah, J.]

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